

## **Scope Statement** **Office of Justice Assistance**

### **Subject**

Creates a new chapter relating to traffic stop information collection and analysis.

### **Objective of Rule**

Implement 2009 Wisconsin Act 28 directive to collect “all information relating to the traffic stop that is required to be collected under rules” promulgated by Office of Justice Assistance (OJA). Generally, the information to be collected is related to the race of individuals in a vehicle stopped by a law enforcement officer in the state of Wisconsin.

### **Policy Analysis**

The Governor and Legislature have mandated an examination of the issue of whether racial minorities are disproportionately stopped by law enforcement officers in the course of driving on the state’s streets and roads. The issue has arisen in several different contexts including community concerns and national reports about Wisconsin’s overrepresentation of minorities in the criminal justice system and federal priorities for federal highway funds that include prohibiting racial profiling in traffic enforcement.

In the past decade, two gubernatorial bodies were appointed to examine issues described as “racial profiling” and “racial disparities” in Wisconsin’s criminal justice system. Both groups reviewed existing research, received citizen and law enforcement testimony and recommended collecting data on traffic stops as one means of determining the extent to which people of different races receive different treatment. Over this period, there also have been several bills introduced to mandate that data be collected and analyzed with regard to the race of individuals involved in traffic stops. No legislation was enacted until the 2009-11 budget.

Public policy issues include the impact of perceived disparate treatment of minorities on citizens’ quality of life, the fundamental fairness in the administration of justice and the potential workload impact of additional data collection on limited law enforcement resources. 2009 Wisconsin Act 28 directs that administrative rules are to cover the type of data to collect, the circumstances under which the data is collected, the format in which law enforcement must submit the data and the types of analyses OJA will conduct of the data.

### **Statutory authority**

Sections 16.964(16) and 349.027, Wis. Stats. as well as non-statutory language in 2009 Wis. Act 28, Section 9101(11y) and (12x).

**Staff time required**

At a minimum, we estimate approximately 1000 hours of agency and DOA staff time will be needed to promulgate the rules.

**Entities Affected by Rule**

2009 Wisconsin Act 28 requires all law enforcement agencies that make traffic stops to collect and submit data. Community organizations, advocacy groups and individual citizens are interested in racial justice issues.

**Comparison with Federal Regulation**

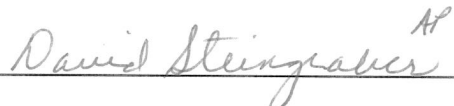
There is no known federal law requiring the collection and analysis of data about the racial characteristics of individuals involved in traffic stops. However, the federal government has provided incentive funds to encourage states to enact laws prohibiting racial profiling in the enforcement of traffic laws on what are termed "Federal-aid" highways. In short, the federal government will make money available to states who either enact or take steps toward enacting legislation to prohibit racial profiling in traffic stops and collect and analyze data related to traffic stops.

The federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) 23 USC s.1906(2005) sets national priorities for public safety on nationally funded highways. In Wisconsin, those are interstate and numbered state highways. Section 1906 of SAFETEA-LU provides incentive funding to encourage states to enact and enforce a law that prohibits the use of racial profiling in highway law enforcement and to maintain and allow public inspection of statistical information for each motor vehicle stop in the state regarding the race and ethnicity of the driver and any passengers. The Wisconsin Department of Transportation, Bureau of Transportation Safety (BOTS) received FFY2008 1906 Racial Profiling Incentive Grant funds from the National Highway Safety Administration and has applied for FFY2009 funds. Funds are to be used for collecting and maintaining data on traffic stops; evaluation of the data; and developing and implementing programs, including training, to reduce the occurrence of racial profiling.

**Contact Information**

Dennis Schuh, Program Director  
Office of Justice Assistance  
1 S. Pinckney Street, Suite 615  
Madison, WI 53703  
(608) 266-7682  
Dennis.Schuh@wisconsin.gov

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David Steingraber, Executive Director  
Office of Justice Assistance